

Oswal Overseas Ltd. Vs. Cce

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Court : Customs Excise and Service Tax Appellate Tribunal CESTAT Delhi

Decided On : Dec-14-2007

Reported in : (2008)(127)ECC186

Judge : S Kang, Vice

Appellant : Oswal Overseas Ltd.

Respondent : Cce

Judgement :

1. The appellant filed these appeals against the impugned order whereby remission application was rejected and consequential demand is confirmed.

2. The appellants are engaged in the manufacture of sugar and during the manufacture of sugar the molasses is a bye-product. Molasses had come into existence the same was stored in the factory of production.

The appellant filed application for remission of duty in respect of the molasses which was lost in storage during the sugar season of 2002-03.

The contention of the appellant is that the storage loss is only 0.72% which is less than the permissible limit of 2%. The appellant relied upon the decision of the Tribunal in the case of Ramla Sehkar Chinni Mills Ltd. v. CCE Seksaria Biswan Sugar Factory (P) Ltd. v. CCE contention is that the Tribunal in these cases held that losses occurred due to storage which are less than 2% are condonable. The contention is that the remission application has been rejected on the ground that

intimation regarding loss was not given to the Revenue within 24 hrs. The contention is that intimation to the Revenue within 24 hrs is given only in the case of loss of destruction of goods by natural cause or accident. In the present case, there is no such accident as, therefore, the remission application was filed at the time when the loss was detected by the appellant.

3. The contention of the Revenue is that the remission application is to be filed within 24 hrs. all occurrence of accident and Revenue relied upon the board's circular dated 1.12.84.

4. I find that in this case the appellant filed remission application for remission of duty in respect of loss of molasses which was on the ground of loss during storage. The loss is only 0.72%. The application is rejected only on the ground that the information was not given to the Revenue within 24 hrs. I find that the intimation to the Revenue within 24 hrs is only in the case loss of destruction of goods by natural cause or accident. In the present case, there is no such accident, therefore, the denial of credit on this ground is not sustainable.

5. Further, I find that a similar situation the Tribunal in the case relied upon by the appellant allowed the remission by taking into consideration the board's circular dated 18.7.83 where it has been clarified that 2% losses in storage in respect of molasses is condonable.

6. In view of the above decision, I find that the denial of remission of duty and consequential demand and penalty is not sustainable hence set aside. The appeals are allowed.

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